

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re : Douglas E. LeCrone and Eugene D. Pfleuger  
Serial No. : 10/785,614  
Filed : February 24, 2004  
FOR : Method and Apparatus for Enabling Consistent  
Ancillary Disk Array Storage Device  
Operations With Respect to a Main  
Application  
EXAMINER : Elmira Mehrmaneshi  
ART UNIT : 2113

May 3, 2007

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

RESPONSE TO NON-FINAL OFFICE ACTION

In response to the Office Action mailed January 5, 2007, Applicants respectfully request the Examiner to withdraw the rejection of claims 1 through 9 under 35 U.S.C. 103.

The Examiner rejects claims 1 through 9 under 35 U.S.C. 103 as being unpatentable over U. S. Patent No. 6,370,626 to Gagne et al. in view of U. S. Patent No. 7,093,087 to Suzuki et al.

Applicants submit that the Suzuki et al. patent can not be used as a reference. The Suzuki et al. patent was filed in Japan on December 18, 2002. The effective filing date for

claims 1 through 9 of the above-identified application is July 10, 2000, the filing date of parent application U. S. Patent Serial No. 09/613,118. Applicants therefore submit that this reference can not be considered as a reference. Applicants respectfully submit, therefore, any claim element alleged to have been disclosed in or suggested by the Suzuki et al. patent can not serve as a basis for any rejection. Claims 1 through 9 should be allowed over the Gagne et al. reference taken alone.

Applicants therefore respectfully request the Examiner to reconsider the basis for the office action, withdraw the rejection and allow claims 1 through 9.

If there are any questions, we urge the Examiner to call us collect.

Respectfully Submitted,

/George A Herbster/

George A. Herbster  
Reg. No. 24,002  
40 Beach Street  
Manchester, MA 01944  
(978) 526-8111